

A. **The Objections**

While the Applicants believe that none of the present objections constitutes a major deficiency of the above-identified application, nonetheless, in an effort to expedite the prosecution of the above-identified application, the Applicants have made the amendments requested by the Examiner. The Applicants note that none of these amendments obviating the Examiner's objections narrow any of the claims.

i. ***To The Specification***

The Examiner objected to several informalities in the above-identified application. For instance, the Examiner objected to the failure to recite the patent number assigned to the parent application of the above-identified patent application.

In view of the Examiner's objections, the Applicants made the amendments requested by the Examiner, or respectfully submit that the objections are not well founded.

Moreover, the Applicants respectfully submit that each of the amendments is well supported by the specification as originally filed. Indeed, most of the amendments merely make the typographical corrections called for by the Examiner.

In view of these amendments, the Applicants respectfully submit that they have obviated the basis for each of the Examiner's objections to the specification of the above-identified application.

ii. ***To The Drawings***

The Examiner objected to several of the Drawings in the above-identified application. In view of the Examiner's objections, the Applicants have forwarded under cover of this Amendment proposed changes the Drawings to obviate the basis for the Examiner's objections without adding new matter.

The Examiner's first drawing based objection is drawn to the lack of threads on rod (50) in Fig. 13. Attached amended Fig. 13 shows a proposed change to this figure to add the threads. The Applicants submit that the Examiner's objection evidences the ample support in the specification of the above-identified application for this change to Fig. 13. Consequently, the Applicants respectfully submit that in view of this proposed drawing change, this amendment must be withdrawn.

The Examiner's second drawing based objection is drawn to the lack of threads on the inner surface of fastener (55) in Fig. 16. Attached amended Fig. 16 shows a proposed change to this figure to add the threads. Again, the Applicants submit that the Examiner's objection evidences the ample support in the specification of the above-identified application for this change to Fig. 16. Consequently, the Applicants respectfully submit that in view of this proposed drawing change, this amendment must be withdrawn.

The Examiner's third drawing based objection is drawn to the absence of the auxiliary shelf from the drawings. While the Applicants do not believe that an additional drawing is needed, they have added new Fig. 20. Again, the Examiner's objection is *prima facie* evidence that the specification of the above-identified application provides ample support for this drawing.

More particularly, the Applicants submit that Fig. 20 merely adds an auxiliary shelf to the mechanism of the present invention shown in Fig. 5. This addition to Fig. 5, as the Examiner notes, is also described by original claim 55. This addition to Fig. 5 is also described on page 8, lines 6 - 8. Moreover, this feature of the claimed subject matter was well known in the art at the time the above-identified patent application was filed. *See e.g.*, Figure 1 of United States Patent No. 4,776,284, to McIntosh issued October 11, 1988. In view of the several

disclosures in the above-identified application as originally filed and the prior art's knowledge of auxiliary shelves, the Applicants respectfully submit that new Figure 20 with its auxiliary shelf does not add any new matter to the above-identified patent application.

Revised Figure 12 corrects the typographical error noted therein by the Examiner. Specifically, the cam incorrectly labeled 43 in Fig. 12 has been relabeled 45 as described on page 16, lines 3 - 14.

Moreover, the revision to Fig. 12 obviates the basis for the Examiner's objection to Fig. 8 based on the use of 43 for the opening in that figure and the same numeral for the cam in Fig. 12.

The Examiner also objected to the lack of an explicit reference to numeral 30 in Fig. 3. To obviate this objection, the Applicants amended the specification to explicitly refer to numeral 30 in Fig. 3.

In sum, the Applicants have proposed changes to the drawings of the above-identified application that obviate each of the bases of the Examiner's objections to the drawings. In view of the Applicants' proposed changes, the Applicants respectfully submit that the Examiner's objections to the drawings must be withdrawn.

iii. *To The Claims*

The Examiner objected to several typographical errors in the claims. The Applicants have amended the claims -- without narrowing the objected to claims for any reason, including to avoid any prior art. In view of these amendments, the Applicants respectfully submit that they have obviated the bases for these objections to the claims. The Applicants therefore request that the Examiner withdraw the objections to the claims.

B. **The Rejections**

The Examiner rejected the pending claims on several grounds, namely as (i) indefinite, as (ii) anticipated, and as (iii) obvious over the prior art. For the reasons set forth below, the Applicants respectfully disagree and submit that the claims, as amended, are allowable.

i. The Indefiniteness Rejection

The Examiner also rejected claims 54 and 96 as indefinite. While the Applicants do not agree with the Examiner's interpretation, to expedite prosecution, the Applicants have amended their claims without narrowing the claims.

Specifically, the Examiner alleges that there is no antecedent for the phrase "the ground" in claim 54. The Applicants substituted the phrase "the horizon" for the "the ground" phrase. Additionally, the Applicants respectfully submit that the structure of claim 54 inherently has a reference to the horizon. Thus, the inherent reference provides the antecedent for the amended claims.

With respect to claim 96, the Examiner alleges that the phrase "a linkage arm" in line 5 renders the claim indefinite. The Applicants believed that the phrase "a linkage arm" was clear in the claim as submitted. For instance, the Examiner clearly identified the what was intended by the claim as submitted. Nonetheless, the Applicants amended claim 96 to conform to the Examiner's proposed language which the Applicants believe to be equivalent to the original language of claim 96.

In view of the amendments to claims 54 and 96, the Applicants respectfully submit that they have obviated the basis for the indefinite rejections. Consequently, the Applicants respectfully request that the Examiner withdraw this rejection.

ii. The Anticipation Rejection

The Examiner rejected claims as anticipated by the Du Vall patent, the Russell patent and the Watt patent. For the reasons set forth below, the Applicants respectfully submit these rejections should be withdrawn.

(a) The Du Vall patent

The anticipation rejection based on the Du Vall patent is directed solely to claims 55 and 56.¹ The Applicants amended claim 55 to more clearly point out and more distinctly claim the subject matter they regard as their invention. Claim 55, as amended, is directed to an auxiliary shelf mechanism in which the linkage attaches to the auxiliary shelf in the interior region of the shelf and above the bottom of the shelf. In contrast, the Du Vall patent is directed to a device in which the linkage attachment occurs at the extreme edges of the auxiliary shelf. Thus, the Du Vall patent does not teach, and indeed by directing the linkage attachment to the exterior edges, teaches away from, the claimed subject matter. Consequently, the Applicants respectfully submit that Du Vall does not anticipate the subject matter of claim 55, as amended, and therefore request that the Examiner withdraw this rejection.

Claim 56 depends from claim 55. As shown above, the Du Vall patent does not anticipate claim 55, as amended. Therefore, the Du Vall patent cannot anticipate claim 56. Consequently, the anticipation rejection of claim 56 must also be withdrawn.

¹ The Applicants have not been able to find any patent corresponding to the designation given by the Examiner, namely U.S. Patent No. 5,3002,015.

(b) The Russell patent

The anticipation rejection based on the Russell patent is directed solely to claim 68. The Applicants respectfully submit that when claim 68 is properly read, the Russell patent does not anticipate claim 68. Nonetheless, to clarify what the Applicants regard as their invention, the Applicants amended claim 68 to more clearly describe the subject matter they regard as their invention.

Among differences between the claimed subject matter of claim 68 and the teaching of the Russell patent is the location of the linkages. The Applicants invented a mechanism in which the linkage is located near the center of the surface supported. *See* Figs. 5 and 6. In contrast, it is unclear as to where the linkages of the Russell patent are located. In view of this and other differences, the Applicants respectfully submit that the subject matter of claim 68 is not anticipated and that the present rejection should be withdrawn.

(c) The Watt patent

The Examiner also rejected claim 96 as anticipated by the Watt patent. However, the Watt patent expressly teaches that the “support brackets” are affixed to the opposite ends of the keyboard supporting panel or tray. *E.g.*, col. 3, lines 39 - 48. In contrast, the Applicants invented a mechanism in which the linkage-support connection is located away from the edge of the surface supported. Additionally, the Watt patent relies upon a parallelogram type linkage. *E.g.*, col. 3, lines 63 - 66. In marked contrast, the Applicants invented a mechanism that employs a non-parallel mechanism. For these and other reasons, the Applicants respectfully submit that the claimed subject matter is not taught by the Watt patent. As the claimed subject matter is not taught by the Watt patent, the Watt patent does not anticipate the claimed subject matter.

iii. The Obviousness Rejection

The Examiner has asserted that each of the claims not rejected as anticipated is rendered unpatentable as obvious by one of five combinations of references. First, the Examiner asserted that certain claims are rendered obvious by the Russell patent in view of the McConnell patent. Next, the Examiner asserted a claim is rendered obvious by the Russell patent in view of McConnell patent in further view of the Cotterill patent. Then the Examiner alleges a claim is rendered obvious by the Du Vall patent in view of McConnell patent. The Examiner continues by alleging that several claims are rendered obvious by the Russell patent in view of the Watt patent. Finally, the Examiner alleges that several claims are rendered obvious by the Russell patent in view of the Watt patent and in further view of the McConnell.

The Applicants respectfully traverse the Examiner's rejection and submit that the present rejection does not set forth a *prima facie* showing that the rejected claims are obvious. In particular, the Applicants note that several of the references combined in the present rejections are inconsistent, and therefore cannot be properly combined. In view of the inconsistencies among the cited art, the Applicants submit the obviousness rejections must be withdrawn.

Russell in further of McConnell

The Examiner rejected claims 1-5, 7, 9, 10, 15-17, 19-31, 33, 35-37, 42-44, 46-54, 61-67 and 69-77 based upon the alleged teachings resulting from a combination of the Russell patent in further view of the McConnell patent. Office Action at 8 - 10. In particular, the Examiner notes that

Russell discloses the mechanism as applied above but does *not* teach the first/upper and second/lower arms not being substantially parallel to each other. (Emphasis added.)

Indeed, more than merely "not teach[ing that] the first/upper and second/lower arms [are] not being substantially parallel to each other", the Russell patent expressly teaches

that the arms are parallel and that they form a parallelogram linkage. *E.g.*, col. 2, lines 27 - 41.

Non-parallel arms do not function like parallel arms and they operate in a differ way to achieve a different result. For instance, the McConnell patent cited by the Examiner states that non-parallel arms cause the angle of the auxiliary shelf to change as the mechanism is moved up and down, whereas a parallelogram linkage is noted for its ability to maintain a constant orientation.

In contrast, as the Examiner acknowledges, the McConnell discloses a mechanism in which the arms are not substantially parallel to each other. Office Action at 8.

Another inconsistency between the Russell and McConnell patents is where the linkage is attached to the auxiliary shelf. While the point of attachment does not appear to be given expressly in the Russell patent, the figures suggest that the attachment is at the side extremities of the auxiliary shelf. In contrast, the McConnell device appears to connect the linkage to the auxiliary shelf near the interior of the shelf. In sum, the teachings of the references are inconsistent and therefore cannot be properly combined to support a *prima facie* showing of obviousness under section 103.

In short, Russell teaches the use of a parallelogram linkage and McConnell teaches the avoidance of the same linkage, and Russell suggests attaching the linkage at the outer edges of the auxiliary shelf and McConnell teaches an interior linkage attachment. In other words, these references are inconsistent with each other. Because of their inconsistencies, these references cannot, under the standards of 35 U.S.C. § 103, be combined to form the foundation of a rejection. In effect, the inconsistency between the references provides no basis for the rejection. As a result of the lack of a sound basis, this rejection must be withdrawn.

The Applicants also note that the Examiner alleges that the McConnell patent provides a motivation to combine because of its teaching of efficient storage. *See* Office Action

at 9. However, as stated in the above-identified application, the McConnell patent does not fulfill this promise. Rather,

Th[e McConnell, U.S. Pat. No. 5,257,767] non-parallelogram linkage causes the front of the keyboard shelf to be angled upwards when the shelf is lowered relative to the desk top, marginally increasing the leg room available to the user when the keyboard is positioned beneath the desk. Like the Smeenge mechanism, the McConnell mechanism has its linkage attached to the bottom of the keyboard shelf, which limits the total leg room available to the user.

Page 2 of the above-identified application, lines 17 - 22.

As a result, this alleged efficient storage is illusory and thus would not motivate one of ordinary skill to adapt the McConnell mechanism to incorporate any other mechanism. Instead, the McConnell mechanism with its cumbersome structure that does not achieve the objective of the alleged invention would discourage one of ordinary skill from seeking to develop a mechanism that truly stores without significantly limiting the under the desk knee space. For this further reason, no combination of references including the McConnell patent renders the claimed subject matter obvious.

Russell in view of McConnell in further view of Cotterill

The Examiner rejected claim 18 based upon the alleged teachings resulting from a combination of the Russell patent in view of the McConnell patent “and further in view of U.S. Patent 5,037,867 to Cotterill”. Office Action at 10 - 11. The Applicants respectfully submit that this rejection is similarly ill founded and must also be withdrawn.

To begin with, the Applicants submit that U.S. Patent 5,037,867 is at best non-analogous art. Specifically, the Applicants respectfully note that this patent is entitled “Stabilized compositions containing substituted isoxazolidines”.

The Applicants have guessed that the Examiner meant to reference U.S. Patent 5,031,867 to Cotterill. But even that change in the basis set forth for the present rejection would not provide an adequate basis for the present rejection.

Again, the Russell and the McConnell patents, as stated above, are inconsistent and cannot be combined. The Examiner has not identified anything in either the Russell or the McConnell patent that would overcome this inconsistency. Thus, for this reason alone, these references cannot be combined.

In addition, the McConnell and Cotterill patents are also inconsistent with one another. For instance, while both the McConnell and Cotterill patents each have brackets that are attached to the support, they attach in very different positions. Specifically, the Cotterill patent describes brackets that are disposed near the periphery of the support. *See* FIG. 1. In marked contrast to the periphery positioning of Cotterill, the McConnell describes a device in which the corresponding brackets are disposed about the center of the support. Consequently, neither of these references can be properly combined.

Furthermore, as noted above, McConnell discourages one of ordinary skill from seeking to make the claimed subject matter. Thus, the negative motivation provided by McConnell precludes a finding that the claimed subject matter is obvious.

In sum, due to the inconsistencies among the cited art and the negative motivation provided by the McConnell patent, the present rejection of claim 18 is not well founded and must be withdrawn.

Du Vall in view of McConnell

The Examiner next rejected claim 57 based upon the alleged teachings resulting from a combination of the Du Vall patent in view of the McConnell patent. Office Action at 11.

The Applicants respectfully submit that this rejection is also ill founded and must also be withdrawn.

Again, the cited art is inconsistent. The Du Vall patent, like the Cotterill patent, describes brackets that are disposed near the periphery of the support. *See* FIG. 3. In marked contrast to the periphery positioning of Du Vall, the McConnell describes a device in which the corresponding brackets are disposed about the center of the support. Consequently, neither of these references can be properly combined.

Additionally, as noted above, McConnell discourages one of ordinary skill from seeking to make the claimed subject matter. Thus, the negative motivation provided by McConnell precludes a finding that the claimed subject matter is obvious.

In sum, due to the inconsistencies among the cited art and the negative motivation provided by the McConnell patent, the present rejection of claim 57 is not well founded and must be withdrawn.

Russell in view of Watt

The Examiner next rejected claims 72-82 and 86 based upon the alleged teachings resulting from a combination of the Russell patent in view of the Watt patent. Office Action at 11. The Applicants respectfully submit that this rejection is similarly ill founded and must also be withdrawn.

As noted above, it is not clear from the Russell patent where the linkages used in the device described in the Russell patent are located. However, Watt clearly locates the “support brackets”, and hence the linkages, at the opposite ends of the keyboard supporting tray. *E.g.*, col. 3, lines 39 - 48. Thus, a combination of the teachings of the Russell and Watt patents must necessarily locate the linkages at the opposite ends of the keyboard supporting tray.

In contrast to the combination of the teachings of the Russell and Watt patents which puts the linkages at the outer side edges of the shelving surface, the claimed subject matter places the shelf bracket being away from the outer side edges of said shelving surface. In other words, the combination of the teachings of the Russell and Watt patents teaches away from the claimed subject matter. Consequently, the combination of the Russell and Watt patents does not render the claimed subject matter obvious.

Russell in view of the Watt in further view of McConnell

In the Examiner's final rejection under section 103, the Examiner asserted that claims 83-85 and 87 - 95 were unpatentable as obvious over Russell in view of Watt in further view of McConnell. The Applicants submit that these references are inconsistent and cannot be combined to formulate a rejection under section 103. Therefore, this rejection must be withdrawn.

As noted above, Watt clearly states that the "shelf-linkage" bracket is located at the edge of the "shelf". *E.g.*, col. 3, lines 39 - 48. Russell is unclear as to where the "shelf-linkage" bracket is in relation to the edge of the "shelf". Finally, McConnell inferentially teaches that the "shelf-linkage" bracket is located away from the edge of the "shelf". (Specifically, the McConnell patent states that the device described and claimed therein is of the type disclosed in the Smeenge U.S. Patent No. 4,616,798, a device where the "shelf-linkage" bracket is located away from the edge of the "shelf"). Thus, these three references are inconsistent with each other and thus cannot form the basis of a rejection under section 103. Therefore this rejection must be withdrawn.

Additionally, the Applicants again submit that the McConnell patent would motivate one of ordinary skill to avoid doing anything remotely resembling its teachings.

CONCLUSION

The Applicants respectfully submit that the claims are in condition for allowance
and respectfully solicit the same at an early date.

August 5, 2002

Respectfully submitted

Walter Scott

Walter Scott

Reg. No. 30,588

(212) 626-4192

